

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

NATOSHA DUNSTON,

*Plaintiff,*

*-against-*

261 NOSTRAND LLC and CAFE GRAVITY  
CORP,

Defendants

Civil Action No.1:22-cv-07587-DG-RML

ANSWER

Defendant 261 Nostrand LLC (“Defendant”), by and through undersigned counsel and pursuant to Federal Rule of Civil Procedure, hereby files its Answer and Affirmative Defenses to Plaintiff’s Complaint, and states as follows:

1. Admitted for jurisdictional purposes only. Otherwise denied.
2. Unknown therefore denied.
3. This is a legal conclusion or statement of law, and not an allegation of fact; to the extent that this paragraph must be admitted or denied, it is denied.
4. Admitted for jurisdictional purposes only. Otherwise denied
5. Unknown therefore denied.
6. Unknown therefore denied.
7. Unknown therefore denied
8. This is a legal conclusion or statement of law, and not an allegation of fact; to the extent that this paragraph must be admitted or denied, it is denied.
9. Unknown therefore denied
10. Unknown therefore denied
11. Admitted for venue purposes only. Otherwise denied Denied.

12. Unknown therefore denied
13. Unknown therefore denied
14. This is a legal conclusion or statement of law, and not an allegation of fact; to the extent that this paragraph must be admitted or denied, it is denied.
15. This is a legal conclusion or statement of law, and not an allegation of fact; to the extent that this paragraph must be admitted or denied, it is denied.
16. This is a legal conclusion or statement of law, and not an allegation of fact; to the extent that this paragraph must be admitted or denied, it is denied.
17. This is a legal conclusion or statement of law, and not an allegation of fact; to the extent that this paragraph must be admitted or denied, it is denied.
18. This is a legal conclusion or statement of law, and not an allegation of fact; to the extent that this paragraph must be admitted or denied, it is denied.
19. This is a legal conclusion or statement of law, and not an allegation of fact; to the extent that this paragraph must be admitted or denied, it is denied.
20. This is a legal conclusion or statement of law, and not an allegation of fact; to the extent that this paragraph must be admitted or denied, it is denied.

**AS To "PRAYER FOR RELIEF"**

21. Defendant 261 NOSTRAND LLC denies that Plaintiff is entitled to any relief demanded in the "Prayer for Relief" clause of the Complaint, and is not entitled to any other form of relief whatsoever. Without assuming the burden of proof as to any of the following defenses where the law does not impose such burden on Defendant 261 NOSTRAND LLC, asserts the following affirmative Defenses:

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

22. The Complaint fails to state a claim, in whole or in part, upon which relief may be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

23. The Claims are barred because Plaintiff failed to allege structural barriers with requisite specificity which actually prohibit his access to the property.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

24. Defendant 261 NOSTRAND LLC is not the responsible party concerning resulting liability for any of the alleged.

**RESERVATION OF RIGHTS**

25. Defendant 261 NOSTRAND LLC reserve the right to amend these affirmative defenses as and if appropriate as discovery in this case proceeds.

**ATTORNEY FEES**

26. Defendant 262 Nostrand LLC has retained the Law Office of Frank J. Rio and have agreed to pay it a reasonable fee for its services. Pursuant to 28 U.S. C. §1927 and 42 U.S.C. §12205, Defendant 262 Nostrand LLC is entitled to recover attorneys' fees and costs incurred in this action in the event it is deemed a prevailing party in this action, or otherwise demonstrate entitlement to fees under said statutes.

WHEREFORE, for the foregoing reasons, Defendant 262 Nostrand LLC demand the case against it be dismissed with prejudice, with all costs and attorneys' fees taxed against Plaintiff.

Dated: Brooklyn, New York  
October 4, 2023

Yours, etc.,

Law office of Frank J. Rio

By: \_\_\_\_\_

Frank J. Rio

Attorneys for 262 Nostrand LLC

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